

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Approve and authorize the Chairman to execute the attached Contract Renewal, as prepared by the Florida Department of Transportation (FDOT)

DEPARTMENT: Leisure Services

DIVISION: Streetscapes and Trails

AUTHORIZED BY: Joe Abel

CONTACT: Bryan Nipe

EXT: 2001

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute the attached Contract Renewal, as prepared by the Florida Department of Transportation (FDOT) for Memorandum of Agreement No. AOH61 allowing for enhanced landscape maintenance provided by Seminole County with reimbursement by FDOT at the S.R. 17-92/I-4 on/off ramps.

District 5 Brenda Carey

Bryan Nipe

BACKGROUND:

Seminole County entered into a Memorandum of Agreement with FDOT on October 24, 2006 whereas the County provides enhanced landscape maintenance on FDOT R/W at the 17-92 and I-4 interchange. The limits of maintenance include all landscaped embankments, slopes, and mowed zones on the southbound and northbound on/off ramps. FDOT reimburses the County annually at the amount FDOT would incur to provide standard highway landscape maintenance.

STAFF RECOMMENDATION:

Staff recommends that the Board approve and authorize the Chairman to renew Memorandum of Agreement No. AOH61 with Florida Department of Transportation (FDOT), allowing for enhanced landscape maintenance provided by Seminole County with reimbursement by FDOT at the S.R. 17-92/I-4 on/off ramps.

ATTACHMENTS:

1. Agreement
2. Notify Letter
3. Outcome Letter
4. CAO Opinion
5. Agreement

Additionally Reviewed By:

- ☐ County Attorney Review (Ann Colby)
- ☐ Budget Review (Ben Crawford, Fredrik Coulter, Lisa Spriggs)

SEMINOLE COUNTY
AND
THE FLORIDA DEPARTMENT OF TRANSPORTATION
HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT

Contract No.: AOH61

THIS Agreement, entered into this 24 day OCTOBER, 2006 by and between the STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, a component agency of the State of Florida, hereinafter called the DEPARTMENT and the COUNTY of SEMINOLE, State of Florida, existing under the Laws of Florida, hereinafter called the **COUNTY**.

W I T N E S S E T H

WHEREAS, as a part of the continual updating of the State of Florida Highway System, the DEPARTMENT, for the purpose of safety, has created roadway, roadside areas and median strips on that part of the State Highway System within the limits of the **COUNTY** or adjacent to; and

WHEREAS, the **COUNTY** hereto is of the opinion that said roadway, roadside areas and median strips shall be attractively maintained;

WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the **COUNTY**, by Resolution 2006-R-226 dated the 10 day of Oct, 2006 attached hereto as **EXHIBIT "A"**, which by reference hereto shall become a part hereof, desires to enter into this Agreement and authorizes its officers to do so.

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. The **COUNTY** shall be responsible for routine maintenance of all shoulders, landscaped and/or turfed areas within DEPARTMENT rights-of-way having limits described by Exhibit "B", or subsequent amended limits mutually agreed to in writing by both parties. For the purpose of this Agreement, the maintenance to be provided by the **COUNTY** is defined in **EXHIBIT "C"**, or as defined by subsequent amended definitions agreed in writing by both parties.

2. In the event of a natural disaster (i.e. hurricane, tornado, etc.) or other normal occurrences such as vehicle accidents and hazardous waste spills, the County and the Department will cooperate and coordinate the use of their respective resources to provide for the clean up, removal and disposal of debris or other substances from the Department's right of way (described in Exhibit "B" or subsequently amended limits mutually agreed to in writing by the parties hereto). The Department shall not deduct from the payment to the County, costs for impairment of performance of any activity or part thereof defined in Exhibit "C", as a result of such event and the redirection of County forces towards fulfillment of the responsibility under this article. This paragraph shall not be interpreted to reduce the County's right to compensation or reimbursement from any other sources (i.e., FEMA) for the debris removal or other activities of the County subsequent to a natural disaster or accident.

3. To the extent permitted by Florida law the **COUNTY** agrees that it will indemnify and hold harmless the DEPARTMENT and all of the DEPARTMENT'S officers, agents, and employees from any claim, loss, damage, cost, charge or expense arising out of any act, action, neglect or omission by the **COUNTY** during the performance of this Agreement, whether direct or indirect, and whether to any person or property to which the DEPARTMENT or said parties may be subject, except that neither the **COUNTY** nor any of its subcontractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the negligence of the **DEPARTMENT** or any of its officers, agents, or

employees. The Forgoing Provision is not intended to give rise to Rights in any third party to recover damages from the **COUNTY**, nor is it intention to constitute a waiver of sovereign immunity.

4. If, at any time while the terms of this Agreement are in effect, it shall come to the attention of the **DEPARTMENT's** Director of Transportation Operations, District 5, that the **COUNTY** responsibility as established herein or a part thereof is not being properly accomplished pursuant to the terms of this Agreement, said Director of Transportation Operations, District 5, may, at his option, issue a written notice in care of the Public Works Director to place said **COUNTY** on notice thereof. Thereafter the **COUNTY** shall have a period of (30) thirty calendar days within which to correct the cited deficiency or deficiencies. If said deficiency or deficiencies are not corrected within this time period the **DEPARTMENT** may at its option, proceed as follows:

(A) Maintain the roadway shoulders, median strip or roadside area declared deficient with the **DEPARTMENT** or a Contractor's material, equipment and personnel. The actual cost for such work will be deducted from payment to the **COUNTY** or

(B) Terminate this Agreement in accordance with Paragraph 11 of this Agreement.

5. During the term of this Agreement, the **DEPARTMENT** may from time to time engage in transportation projects on the roads covered by this agreement. Some of those projects may involve the **DEPARTMENT's** construction contractor temporarily assuming maintenance responsibility for the limits of the project. In that event, the Department will notify the Local Government of the limits of the project and the time frame for the project. During that time and for those limits, the Local Government will be released from its obligation to perform maintenance on those roads and the compensation to be paid under this agreement will be temporarily reduced. The reduction in compensation shall be based on the formula used to

initially compute the amount of compensation under this agreement and the Local Government will be notified of the amount of the reduction as part of the above-referenced notice.

6. The Department agrees to pay to the **COUNTY**, following a Notice to Proceed, compensation for the cost of maintenance as described under Item 1 of this Agreement. The payment will be in the amount of **\$1,800.00** per quarter or a total sum of **\$7,200.00** per year. In the event this Agreement is terminated as established by Paragraph 11 herein, payment shall be prorated to the date termination occurs. Detailed quarterly invoices, as provided further herein shall be sent to the Maintenance Contract Engineer of the Department at 2400 Camp Road, Oviedo Florida 32765. Delivery shall be effective upon receipt of a proper quarterly invoice and any required, associated documents.

7. Payment shall be made only after receipt of goods and services as provided in Section 215.422, Florida Statutes.

(A) Any penalty for delay in payment shall be in accordance with Section 215.422(3) (b), Florida Statutes. Section 215.422(5), Florida Statutes provides that all purchasing agreements between a state agency and a vendor, applicable to this section, shall include a statement of the vendor's rights and the state's responsibilities under this section. The vendor's rights shall include being provided with the name and telephone number of the Vendor Ombudsman within the Department of Financial Services.

(B) The **COUNTY** should be aware of the following time frames. Upon receipt, the Department has seven working days to inspect and approve the goods and services, unless otherwise specified herein. The Department has 20 days to deliver a request for payment (voucher) to the Department of Finance. The 20 days are measured from the latter of the date the invoice is received, at the location stated herein, or the goods or services are received, inspected and approved.

(C) If payment is not available within 40 days, a separate interest penalty as established pursuant to Section 215.422, Florida Statutes, will be due and payable, in addition to

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the invoice amount, to the **COUNTY**. Interest penalties of less than one (\$1.00) dollar shall not be enforced unless the **COUNTY** requests payment. Invoices, which have to be returned to the **COUNTY** because of **COUNTY** preparation errors, will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

(D) A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from the Department. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the State Comptrollers Hotline, 1-800-848-3792.

8. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

9. Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for three years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the **COUNTY's** general accounting records and the project records, together with supporting documents and records of the **COUNTY** and all subcontractors performing work, and all other records of the **COUNTY** and subcontractors considered necessary by the Department for a proper audit of costs.

10. The **COUNTY** shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the **COUNTY** in conjunction with this Agreement. Failure by the **COUNTY** to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the Department.

11. This Agreement or any part thereof is subject to termination under any one of the following conditions:

(A) In the event the **DEPARTMENT** exercises the option identified by Paragraph 4 of this Agreement.

(B) In the event the Legislature fails to make an annual appropriation to pay for the **COUNTY's** services to be performed hereunder.

12. The term of this Agreement commences on the date a written Notice to Proceed is issued to the **COUNTY** by the Department's District Maintenance Engineer, District 5, and shall continue for a period of one year from the date of issue of said Notice to Proceed.

This Agreement may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer. Renewals shall be contingent upon satisfactory performance evaluations by the Department and subject to the availability of funds. Any renewal or extension shall be in writing and shall be subject to the same terms and conditions set forth in this Agreement. Any renewal or extension shall be in writing and shall be subject to the same terms and conditions set forth in this Agreement, except that the price to be paid for the renewal periods may be increased by up to (3) percent at the discretion of the **DEPARTMENT**.

Renewals shall be made at the discretion and option of the Department and agreed to in writing by both parties; i.e., the Authorized Signatory for the **COUNTY**, and the Director of Transportation Operations, District 5, for the **DEPARTMENT**. Renewals shall be contingent upon satisfactory performance evaluations by the **DEPARTMENT** and subject to the availability of funds.

The term of this Agreement may be extended for a period not to exceed six (6) months, upon written Agreement by both parties and subject to the same terms and conditions as applicable for renewal of this Agreement.

13. In the event this Agreement extends beyond the DEPARTMENT'S current Fiscal Year that begins on July 1 of each year and ends on June 30 of each succeeding year, the COUNTY and the DEPARTMENT mutually agree that the State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature. In addition, Section 339.135(6)(a) of the Florida Statutes is incorporated by reference, and set forth herein below as follows:

F.S. " 339.135(6)(a)" - The DEPARTMENT, during any Fiscal Year, shall not expend money, incur any liability, or enter into any Contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such Fiscal Year. Any Contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such Contract or other binding commitment of funds. Nothing herein contained shall prevent the making of Contracts for periods exceeding one (1) year, but any Contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all Contracts of the DEPARTMENT which are for an amount in excess of \$25,000 and having a term for a period of more than one (1) year.

14. All work done on the DEPARTMENT rights-of-way shall be accomplished in accordance with the Department of Transportation Manual on Uniform Traffic Control Devices and The Department of Transportation DESIGN STANDARDS, current edition.

15. This writing embodies the whole agreement and understanding of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements either verbal or written, between the parties hereto.

16. This Agreement is nontransferable and nonassignable in whole or in part without consent of the DEPARTMENT.

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17. This Agreement shall be governed by and construed according to the laws of the State of Florida.

18. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals, or replies on leases of real property to any public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months following the date of being placed on the convicted vendor list.

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EXHIBIT "A"

RESOLUTION

RESOLUTION

THE FOLLOWING RESOLUTION WAS ADOPTED AT
THE REGULAR MEETING OF THE BOARD OF
COUNTY COMMISSIONERS OF SEMINOLE COUNTY,
FLORIDA, ON THE 10 DAY OF Oct., 2006.

WHEREAS, the State of Florida Department of Transportation and Seminole County desire to maintain certain roadway, roadside areas and median strips on the State Highway System within Seminole County; and

WHEREAS, the State of Florida Department of Transportation has requested Seminole County to execute and deliver to the State of Florida Department of Transportation a Highway Maintenance Memorandum of Agreement for portions of the State Road System at the interchange of SR 15/600 (US 17/92) and Interstate 4 designating and setting the responsibilities of each party.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Seminole County, Florida, that the Chairman is hereby authorized to make, execute and deliver to the State of Florida Department of Transportation the Highway Maintenance Memorandum of Agreement.

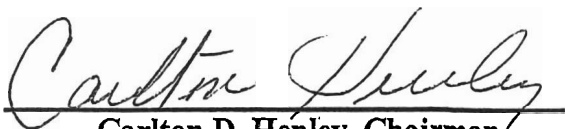
ADOPTED THIS 10 DAY OF October, 2006.

ATTEST:



MARYANNE MORSE, Clerk to the
Board of County Commissioners in
and for Seminole County, Florida.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY



Carlton D. Henley, Chairman

EXHIBIT "B"

THE ROADWAYS INCLUDED IN THIS AGREEMENT ARE:

SECTION	S.R.	LOCATION DESCRIPTION	LENGTH
77010000	15/600	US 17/92, from I-4 west to construction joint M.P. 16.850 to M.P. 16.929	.079 mi
77010101	15/600	US 17/92, from construction joint west to St Johns River Bridge M.P. 0.00 to M.P. 0.211	.211 mi
77160000	I-4	I-4 west bound on ramp north To Volusia County Line M.P. 13.823 to 14.135	.312 mi

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EXHIBIT "C"

ACTIVITY

DESCRIPTION

471	LARGE MACHINE MOWING
485	SMALL MACHINE MOWING
490	FERTILIZING
492	TREE TRIMMING
493	LANDSCAPING MAINTENANCE
497	CHEMICAL WEED/GRASS CONTROL
541	LITTER REMOVAL

LANDSCAPE MAINTENANCE PLAN

Scheduled Operations and Maintenance

Meet all requirements associated with turf care, shrubs/ground cover care, and tree care and noted in Landscape Plans. Perform work in accordance with Section 580 of the Florida Department of Transportation's Standard Specifications for Road and Bridge Construction, latest edition, which is hereby incorporated by reference and made a part of this contract.

Tree, Shrubs and Ground Cover Care

The following chart summarizes the landscape maintenance schedule detailed herein. It shall be used only as a guide.

Month	Application
January	Prune palms, fakahatchee grass and cordgrass, weeding, watering
February	Fertilization, weeding, watering
March	Insect/disease control, weeding, watering, mulching, prune

	Crape Myrtle
April	Weeding, watering
May	Fertilization and insect/disease control, weeding, watering
June	Weeding, watering
July	Insect/disease control, weeding, watering
August	Insect/disease control, weeding, watering
September	Insect/disease control, weeding, watering
October	Fertilization, weeding, watering
November	Insect/disease control, weeding, watering
December	Weeding, watering

Application of Fertilizers/Herbicide/Insecticide/Pesticide

Keep all fertilizers out of waters and remove immediately from all roadways

Submit a report containing bag usage and tonnage per area immediately following application.

Apply all fertilizers, herbicides, insecticides, pesticides (full coverage) according to manufacturer's instructions.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

COUNTY OF SEMINOLE

(AGENCY) Board of County Commissioners

By:

Carlton Henley
Carlton Henley, Chairman (Date)
(Date) 10/10/06

Attest:
(SEAL)

(SEAL)

(Date)

By:

Richard B. M...
Director of Transportation Operations

District Five

Attest:

Executive Secretary

(Date)

LEGAL REVIEW

[Signature]
Legal Approval

10/10/06
(Date)

LEGAL REVIEW

[Signature]
District Counsel

10/26/06
(Date)

District Maintenance Engineer Approval

[Signature]

8-15-2006
(Date)



Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

Oviedo Maintenance
2400 Camp Road
Oviedo, Florida 32765
Telephone (407) 977-6530
Fax (407) 977-6535

STEPHANIE C. KOPELOUSOS
SECRETARY

August 5, 2008

Mr. Bryan Nipe
Seminole County Leisure Services
845 Lake Markham Road
Sanford, FL 32765

RE: Contract Renewal
Contract No. AOH61
FIN Project No: 244852-1-72-03
Contract Type: MOA

Mr. Nipe

This letter is to advise you that the referenced Maintenance Memorandum of Agreement between the Florida Department of Transportation and Seminole County which provides maintenance activities for portions of US 17/92 and I-4, described therein will expire on November 30, 2008.

The Department of Transportation has been satisfied with the County's past performance and wishes to renew the contract with the same terms and conditions. The renewal provides for a 3% increase to the current contract, in the amount of \$7,638.50 annually.

Please provide us with a letter establishing your commitment to renew this Memorandum of Agreement for the areas listed above within ten (10) days of receiving this letter.

Should you have any questions or concerns regarding the aforementioned contract, please contact our office by calling Mr. Jeff Ryals at (407) 977-6530 or by writing to the address listed above.

Sincerely,

James E. Wood, Jr., P.E.
Oviedo Maintenance Engineer

cc: District Contracts
Contract File
JEW: jr

BOARD OF COUNTY COMMISSIONERS



October 14, 2008

Mr. James Wood, Jr., P.E.
FDOT
Orlando Metro North
2400 Camp Road
Oviedo, FL 32765

RE: Contract Renewal
Contract No. AoH61
FIN Project No. 244852-1-72-03
Contract Type: MOA

Mr. Wood:

Consider this a letter of commitment from the Seminole County Board of County Commissioners to renew the October 24th 2006 Highway Maintenance Memorandum of Agreement for a period of (1) year. The Board of County Commissioner's accepts the State's annual renewal increase of 3% for a total of \$7,638.50/year reimbursement to provide these services.


Seminole County looks forward to continuing a successful maintenance relationship with the Florida Department of Transportation.

Sincerely,

Brenda Carey
Chairman, Board of County Commissioners



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

To: Elizabeth Gaussart, Executive Assistant, County Manager's Office
cc: Bryan Nipe, Division Manager, Greenways & Natural Lands Division
From: Ann Colby, Assistant County Attorney 
Ext. 7254
Date: October 7, 2008
Subject: Addition to Renewal of Memorandum of Agreement No AOH61

In response to your email dated October 6, 2008, you forwarded to me an additional page 20 to be added to an Agenda Item for the October 14, 2008 Agenda. The Agenda Item was approval of a renewal to Memorandum of Agreement No AOH61 with the Florida Department of Transportation, allowing for enhanced landscape maintenance provided by Seminole County with reimbursement by FDOT at the S.R. 17-92/I-4 on/off ramps. The Agenda Item called for the renewal to be by letter, approved by the Board of County Commissioners and signed by the Chairman. The new "Page 20", apparently sent at the last minute to the County by FDOT, is a formal Contract Renewal Agreement, and must be approved and executed as such by the Board of County Commissioners. The Contract Renewal meets my approval as to form and legality, although I would suggest that the signature blocks be revised to reflect the County's standard signature block and that the signature lines for a "Florida Licensed Insurance Agent" be eliminated entirely because they are unnecessary.

The Agenda Item should be revised to indicate that the Board is approving and authorizing the Chairman to execute the attached Contract Renewal, prepared by the FDOT, as the primary item.

If you have any additional questions regarding this matter, please let me know.



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

To: Bryan Nipe, Manager, Greenways and Natural Lands Division

From: Ann Colby, Assistant County Attorney 
Ext. 7254

Date: September 9, 2008

Subject: Renewal of FDOT Landscaping Agreement

In response to your request for review dated September 5, 2008, I have reviewed the proposed letter to be signed by the Commission Chairman, to act as a renewal to the Memorandum Agreement entered into by the County and FDOT on October 24, 2006. I would suggest the following changes to the letter:

1. The letter should indicate that it is the Board of County Commissioners' (BCC) renewal to the October 24, 2008 Highway Maintenance Memorandum of Agreement and that the renewal is for a period of one (1) year.
2. The letter should reference the date the renewal was approved by the BCC.
3. The specific reference to the amount of increase is appropriate and proper and should remain in the letter.

If you have any additional question regarding this document, please let me know.

CONTRACT RENEWAL

Contract No.: AOH61 Renewal: (1st, 2nd, etc.) 2nd
 Financial Project No(s): 244852-1-72-03
 County(ies): Seminole

This Agreement made and entered into this _____ day of _____, by and between the State of
(This date to be entered by DOT only.)
 Florida Department of Transportation, hereinafter called "Department", and Seminole County 1101 East First Street
Sanford, Florida 32771-1468 hereinafter called "Contractor".

WITNESSETH:

WHEREAS, the Department and the Contractor heretofore on this 24th day of October 2006
(This date to be entered by DOT only.)
 entered into an Agreement whereby the Department retained the Contractor to perform Routine Maintenance on
State Roadways
 _____; and

WHEREAS, said Agreement has a renewal option which provides for a renewal if mutually agreed to by both parties and subject to the same terms and conditions of the original Agreement;

NOW, THEREFORE, this Agreement witnesseth that for and in consideration of the mutual benefits to flow each to the other, the parties agree to a renewal of said original Agreement for a period beginning the 1st day of December, 2008 and ending the 30th day of November, 2009 at a cost of \$ 7,638.50.

All terms and conditions of said original Agreement shall remain in force and effect for this renewal.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers on the day, month, and year set forth above.

Seminole County
 Name of Contractor

 Contractor Name and Title

BY: _____
 Authorized Signature

 Name of Surety (SEAL)

 City State

STATE OF FLORIDA
 DEPARTMENT OF TRANSPORTATION

BY: _____
 District Secretary or Designee (Signature)

Title: _____

Legal: _____

Fiscal: _____
 Approval as to Availability of Funds